

Remarks/Arguments:

Claims 23, 59-62 and 95-105 are pending in the above-identified application. Claims 23, 59-62, and 95-99 stand rejected. By the present Amendment, claims 23, 59-62, and 95-98 are amended and new claims 100-105 are added.

Rejection of Claims 23, 59-62 and 95-98 Under 35 U.S.C. § 102(e)

Claims 23, 59-62, and 95-98 are rejected under 35 U.S.C. § 102(e) for allegedly being anticipated by U.S. Patent No. 5,918,002 to Klemets et al. ("Klemets"). Although not conceding the rejections, Applicants have amended independent claims 23, 59-62 and 95 to expedite prosecution. It is respectfully submitted that the pending claims are patentable over Klemets for the reasons set forth below.

In particular, amended claim 23 recites features that are neither disclosed nor suggested by Klemets, namely:

determining a priority threshold to achieve a desired transmission rate for a stream of video or audio data comprising a header and a plurality of portions of encoded information, the **header including stream priority information comprising a stream priority and each portion of the encoded information including priority information comprising a priority for the each portion of the encoded information . . .**
(emphasis added)

These features are found in the originally filed application at page 33, lines 17-26; page 34, lines 5-14; page 35, line 17 - page 36, line 32; page 80, lines 3-14; page 82, line 20 - page 83, line 8; and Figs. 28(a), 28(b), and 28(c). No new matter has been added.

To expedite prosecution, Applicants have amended the independent claims to clarify the features relating to priorities. In particular, Applicants have amended claim 23 to recite priority information being placed into two locations of a video or

audio stream that comprises a header and encoded information: (1) within the header of the stream and (2) within the encoded information of the stream.

Applicants' application identifies that including priority information in a stream's header allows for the processing of video or audio stream data to be controlled at an operating-system ("OS") level because such priority information need not be decoded. (See Application, page 36, lines 4-14). More specifically, the stream priority may be used at the OS level to control a time assigned to the OS for decoding the stream. (See Application, page 36, lines 4-14.) Additionally, including encoded priority information in the stream's encoded audio or video information allows for the stream to be thinned by dropping encoded information as needed. (See Application, page 41, line 16 - page 42, line 8). Thus, a terminal under overload may still be able to process remaining stream information. (See Application, page 41, line 16 - page 42, line 8).

The portions of Klemets cited by the Office Action in rejecting claim 23 do not disclose a stream comprising **both** stream priority information in the stream's header and encoded priority information in the stream's encoded information. More specifically, these portions of Klemets do not disclose a data processing apparatus that uses **two** pieces of priority information (a stream priority in a stream's header and encoded priorities within the stream's encoded information) to implement the changeable transmission rates that the Office Action asserts is disclosed therein.

The Office Action cites to col. 12, lines 15-16 of Klemets in asserting that it discloses priority thresholds (a fact which Applicants do not concede). Applicants contend that Klemets does not suggest adjusting such purported priority thresholds to achieve the different transmission rates described at col. 6, lines 35-54. Applicants further contend that this portion (col. 12, lines 15-16) of Klemets does not

suggest sending or processing priority information located in both a stream's header and within information encoded within the stream. Thus, Applicants respectfully assert that Klemets does not disclose, either explicitly or inherently, or suggest **both** stream priority information and priority information encoded within the stream. Accordingly, Applicants respectfully contend that Klemets does not anticipate amended claim 23 and request reconsideration and allowance of the claim.

Claims 59-62 and 95, while not identical to claim 23, include features similar to those of claim 23 discussed above. Accordingly, Applicants respectfully contend that the portions of Klemets cited in the Office Action against claims 59-62 and 95 do not disclose all of the features of the claims, as amended similarly to claim 23, for at least the same reasons as discussed above with respect to amended claim 23. Favorable reconsideration and allowance of claims 59-62 and 95 is respectfully requested.

Claims 96-99 respectively depend from claims 23, 59, 61 and 23 and, therefore, include all of the features of the claims from which they depend. Accordingly, Applicants respectfully contend that the portions of Klemets recited in the Office Action against claims 23, 59, and 61 do not disclose all of the features of claims 96-99 for at least the same reasons as discussed above with respect to amended claim 23. Favorable reconsideration and allowance of claims 96-99 is respectfully requested.

New Claims

By the present Amendment, Applicants submit new claims 100-105 for consideration. Support for claims 100-105 may be found throughout the application and, particularly, at page 41, lines 9-15.

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Because new claims 100-105 respectively depend from claims 23, 59-62, and 95, Applicants respectfully contend that the portions of Klemets cited in the Office Action do not disclose or suggest all of the features of claims 100-105 for at least the same reasons as presented above with respect to amended claim 23. Furthermore, not only does Klemets not disclose a stream containing priorities in **both** the stream's header and within the stream's encoded information, Applicants also assert that the portions of Klemets cited in the Office Action do not disclose or suggest adjusting either of such priorities.

Accordingly, Applicants respectfully contend that the portions of Klemets cited in the Office Action do not disclose or suggest all of the features of new claims 100-105. Favorable consideration and allowance of claims 100-105 is respectfully requested.

Conclusion

In view of the foregoing, Applicants respectfully contend that the application is in condition for allowance and request early notification to that effect.

Respectfully submitted,



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